

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
By: SERRIN TURNER
Assistant United States Attorney
86 Chambers Street
New York, New York 10007
Telephone: (212) 637-2701
Fax: (212) 637-2686

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RASAM MOHAZAB HOSSEINIAN and LADAN
AYATOLLAHI, :

Plaintiffs, :
: :
v. :
: :

EMILIO T. GONZALES, DIRECTOR OF THE U.S. :
CITIZENSHIP AND IMMIGRATION SERVICES, :
MICHAEL CHERTOFF, SECRETARY OF THE U.S. :
DEPARTMENT OF HOMELAND SECURITY, :
ROBERT S. MUELLER, DIRECTOR OF THE :
FEDERAL BUREAU OF INVESTIGATION, and :
MARY ANN GANTNER, NEW YORK DISTRICT :
DIRECTOR OF THE U.S. CITIZENSHIP AND :
IMMIGRATION SERVICES, :
: :
: :

Defendants. :
: :
-----x

ANSWER

07 Civ. 9308 (KMK)

ELECTRONICALLY FILED

Defendants, by their attorney, Michael J. Garcia, United States Attorney for the Southern District of New York, answer the complaint on information and belief as follows:

1. This paragraph constitutes plaintiff's characterization of the case, to which no response is required. To the extent a response is required, deny that there has been an unreasonable delay in adjudicating plaintiff's application.

2. Admit.
3. Admit.
4. Admit.
5. Admit
6. Admit the first sentence. Deny the second sentence.
7. This paragraph constitutes plaintiffs' jurisdictional statement to which no response is required.
8. This paragraph constitutes plaintiffs' statement of venue, to which no response is required.
9. Admit.
10. Deny except to admit that plaintiffs were informed by the referenced letter that their background checks were still pending at the time the letter was issued.
11. Admit that plaintiffs' applications remain unadjudicated. Deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph. Defendants aver that the U.S. Citizenship and Immigration Services ("USCIS") does not maintain records in alien registration files of the kind of complaints referenced in this paragraph.
12. Deny.
13. Deny except to admit that plaintiffs' naturalization applications have not yet been adjudicated.
14. This paragraph constitutes plaintiff's characterization of this action, to which no response is required.

15. This paragraph constitutes a legal assertion to which no response is required. To the extent a response is deemed required, deny knowledge or information sufficient to form a belief as to whether the referenced cases have any relevance to the instant case.

The remaining paragraph of the complaint constitutes plaintiff's prayer for relief, to which no response is required. To the extent a response is required, defendants deny plaintiff is entitled to the relief sought.

FIRST DEFENSE

The complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

The Court lacks subject matter jurisdiction over this action.

THIRD DEFENSE

Plaintiff has failed to exhaust his administrative remedies.

FOURTH DEFENSE

Plaintiff has failed to show that he is owed any peremptory duty that defendants have refused to perform.

FIFTH DEFENSE

Mandamus will not lie against defendants to control the exercise of their administrative judgment and discretion.

SIXTH DEFENSE

Plaintiff's claims are unripe for review.

SEVENTH DEFENSE

Plaintiff is not statutorily eligible for naturalization until CIS has completed its examination of plaintiff.

* * *

WHEREFORE defendants pray that this Court enter judgment dismissing the action and award such other and further relief as the Court deems just and proper, including costs and disbursements.

Dated: New York, New York
December 21, 2007

Respectfully submitted,

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
Attorney for Defendants

By: /s/ Serrin Turner
SERRIN TURNER
Assistant United States Attorney
86 Chambers Street
New York, New York 10007
Tel.: (212) 637-2701
Fax: (212) 637-2686